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CABINET AFFAIRS STAFFING MEMORANDUM

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Date: 1/17/84 Number: 168889CA Due By:

Subject: A combined meeting of the Cabinet Councils on Legal Policy and
Economic Affairs - Thursday, January 19, 1984 at 2:00 pm

| | Action | FYI | | Action | FYI |
|----------------------------|-------------------------------------|-------------------------------------|---------------------------------|-------------------------------------|-------------------------------------|
| ALL CABINET MEMBERS | <input type="checkbox"/> | <input type="checkbox"/> | CEA | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Vice President | <input checked="" type="checkbox"/> | <input type="checkbox"/> | CEQ | <input type="checkbox"/> | <input type="checkbox"/> |
| State | <input checked="" type="checkbox"/> | <input type="checkbox"/> | OSTP | <input type="checkbox"/> | <input type="checkbox"/> |
| Treasury | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Defense | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Attorney General | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Interior | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Agriculture | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Baker | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Commerce | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Deaver | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Labor | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Darman (For WH Staffing) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| HHS | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Jenkins | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| HUD | <input checked="" type="checkbox"/> | <input type="checkbox"/> | McFarlane | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Transportation | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Svahn | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Energy | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Education | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Counsellor | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| OMB | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| CIA | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| UN | <input type="checkbox"/> | <input checked="" type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| USTR | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | CCCT/Gunn | <input type="checkbox"/> | <input type="checkbox"/> |
| GSA | <input type="checkbox"/> | <input type="checkbox"/> | CCEA/Porter | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| EPA | <input type="checkbox"/> | <input type="checkbox"/> | CCFA/ | <input type="checkbox"/> | <input type="checkbox"/> |
| OPM | <input type="checkbox"/> | <input type="checkbox"/> | CCHR/Simmons | <input type="checkbox"/> | <input type="checkbox"/> |
| VA | <input type="checkbox"/> | <input type="checkbox"/> | CCLP/Uhlmann | <input type="checkbox"/> | <input type="checkbox"/> |
| SBA | <input type="checkbox"/> | <input type="checkbox"/> | CCMA/Bledsoe | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | CCNRE/ | <input type="checkbox"/> | <input type="checkbox"/> |

REMARKS:

A combined meeting of the CCLP and the CCEA will be held with the President on Thursday, January 19, 1984 at 2:00 p.m. in the Cabinet Room.

Attached are two briefing papers for the Economic Affairs portion of the agenda.

The background paper for the CCLP portion of the meeting will be distributed on January 18.

Please Note: Though the CCEA issues will follow the Legal Policy issue on Women's Legal Equity, all attendees should be present for the start of the meeting at 2:00 pm.

RETURN TO:

☐ Craig L. Fuller
Assistant to the President
for Cabinet Affairs
456-2823

☐ Katherine Anderson
☒ Tom Gibson
Associate Director
Office of Cabinet Affairs
456-2800

☐ Don Clarey
☐ Larry Herbolzheimer

L-300B
DCI
EXEC
RSC

THE WHITE HOUSE

WASHINGTON

January 17, 1984

MEMORANDUM FOR THE CABINET COUNCIL ON ECONOMIC AFFAIRS

FROM: ROGER B. PORTER *RBP*

SUBJECT: Agenda and Papers for the January 19 Meeting

The agenda and papers for the January 19 meeting of the Cabinet Council on Economic Affairs are attached. The meeting is scheduled for 2:15 p.m. in the Cabinet Room. Attendance is limited to principals only.

The Council will review two agenda items:

1. Enhanced Authority to Limit Spending
2. Youth Unemployment

Memorandums on these issues reflecting recent Cabinet Council discussions are attached.

Attachments

THE WHITE HOUSE
WASHINGTON

CABINET COUNCIL ON ECONOMIC AFFAIRS

January 19, 1984

2:15 p.m.

Cabinet Room

AGENDA

1. Enhanced Authority to Limit Spending
(CM # 412)
2. Youth Unemployment
(CM # 407)

THE WHITE HOUSE

WASHINGTON

January 5, 1983

MEMORANDUM FOR THE PRESIDENT

FROM: THE CABINET COUNCIL ON ECONOMIC AFFAIRS

SUBJECT: Enhanced Authority to Limit Spending

The Cabinet Council on Economic Affairs study on federal budget reform reviewed a variety of potential constitutional changes focused on alternatives for enhanced presidential authority to limit spending. The Cabinet Council recommends that you:

1. Renew your call for a balanced budget-spending limitation constitutional amendment;
2. Seek additional presidential authority to control spending; and
3. Include a call for enhanced authority to control spending in your 1984 State of the Union Address.

Basic Issues

In considering a number of specific proposals, the Council's discussion has focused on two basic issues:

1. Should a proposal take the form of:
 - a. A constitutional amendment establishing line item veto authority;
 - b. A statute providing for enhanced rescission authority; or
 - c. Both.
2. Should a Presidential initiative take the form of:
 - a. Advocating the concept and expressing a willingness to work with the Congress to develop the details of a bill; or
 - b. Proposing a specific piece of legislation.

A short paper providing some background concerning recent congressional activity, describing the option, and discussing the advantages and disadvantages associated with each is attached. Decision blocks for your consideration are found on pages five and six of the attached memorandum.



Donald T. Regan
Chairman Pro Tempore

Attachment

THE WHITE HOUSE

WASHINGTON

December 23, 1983

MEMORANDUM FOR THE PRESIDENT

FROM: THE CABINET COUNCIL ON ECONOMIC AFFAIRS

SUBJECT: Enhanced Authority to Limit Spending

In recent weeks the Cabinet Council on Economic Affairs has devoted much attention to a series of thirteen policy studies it commissioned on a broad range of subjects. One of these studies is on Federal budget reform and examined three areas: capital budgeting; the Congressional budget process; and potential constitutional changes.

The Cabinet Council's review of potential constitutional changes focused on alternatives for enhanced presidential authority to limit spending. The Cabinet Council recommends that you:

1. Renew your call for a balanced budget-spending limitation constitutional amendment; and
2. Seek additional presidential authority to control spending.

The Council also recommends that you include a call for enhanced authority to control spending in your 1984 State of the Union Address.

This memorandum outlines a series of alternatives for seeking enhanced authority to control spending.

Background

During the past year members of both major political parties have proposed providing the President with enhanced authority in the budget process. The most common suggestion is adopting some version of a line item veto, similar to that in use in 43 states. Some have also urged giving the President greater power to rescind budget authority.

In the first session of the 98th Congress, ten bills and resolutions providing for some type of line item veto authority were introduced, seven in the House and three in the Senate. None of these bills was reported out of committee, and no hearings were held.

During the November 1983 debate on increasing the debt limit, Senators Armstrong and Long proposed an amendment to

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the Olympic Coin duty suspension bill that would have increased the President's rescission authority. The amendment was tabled by a vote of 49-46, with 37 Republicans and 9 Democrats voting against tabling, including 8 members of the Appropriations Committee. The Armstrong-Long Amendment would:

- o Set monthly debt limit increases, as well as quarterly limits on the public debt. The quarterly limits would serve as a baseline for the rescission authority.
- o Require the President to defer or rescind enough spending to stay within the quarterly debt limit for any quarter in which he determined that spending would cause the public debt to exceed the limit, and Congress neither reduced spending nor increased the ceiling.
- o Prevent any rescissions from:
 - Eliminating any program, project, or activity;
 - Reducing expenditures for any program, project or activity by more than 20 percent; or
 - Reducing the current level of entitlement program benefits, although it would permit rescinding cost-of-living adjustments (COLAs).

Basic Issues

In considering a wide variety of specific proposals, the Council's discussion has focused on two basic issues:

1. Should a proposal take the form of (i) a constitutional amendment establishing line item veto authority; (ii) a statute providing for enhanced rescission authority; or (iii) both?

2. Should a Presidential initiative take the form of (i) advocating the concept and expressing a willingness to work with the Congress to develop the details of a bill; or (ii) proposing a specific piece of legislation.

Issue 1: What type of enhanced spending control measure should the Administration support?

Option 1: Support a line item veto constitutional amendment.

The proposed amendment would authorize the President to reject any individual item in an appropriations bill; to reduce

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any appropriation he considers excessive; or to veto any substantive riders included in an appropriations bill. A presidential veto could be overturned by a two-thirds vote of both Houses of Congress. The proposed amendment would not affect budget authority not based on a specific appropriations bill. A draft amendment, based on similar state legislation, and a brief discussion of some of the issues that have arisen in the course of state experience with item veto authority, are attached at Tab A.

Advantages

- o The line item veto is a familiar and widely accepted feature of the appropriations process in 43 states.
- o A constitutional amendment, once adopted, would be more difficult to repeal or alter than would an ordinary statute.
- o There would, of course, be no question as to the amendment's constitutionality, once it was adopted and ratified.

Disadvantages

- o The process of amending the Constitution is lengthy and seeking an amendment probably would not provide any enhanced authority for controlling spending in the near term.
- o Despite numerous proposals over the last several decades, Congress has been reluctant to support an amendment giving the President line item veto authority.
- o Even states with line item veto authority in their state constitutions might be reluctant to support such authority for the President when it could be used to reduce Federal grants to state and local governments.

Option 2: Support enhanced rescission authority.

Under current law, the President may propose reducing spending authority for any program, but the Congress must endorse his proposal with legislation before a rescission becomes effective. The essence of most enhanced rescission authority proposals is to make a rescission effective unless Congress passes legislation overturning it.

The legislation could take a number of forms depending on the extent to which, for practical, political or constitutional reasons, Congress chose to limit the enhanced authority.

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There are a large number of ways of limiting such authority. Among the most frequently discussed are the following:

1. Extent of Authority to Rescind. One way of limiting the authority would be to permit it to be exercised only with respect to some baseline such as the level of spending proposed for an item in the President's budget; that is, the President could not reduce spending on any program below the level proposed in his own budget. Another possible baseline would be the nominal level of spending on a program the previous year. Other proposals limit the amount of any individual rescission to a certain percentage of spending on a program.

2. Triggering Event. The President's authority might be limited to particular circumstances such as reaching the debt ceiling limit (Armstrong-Long amendment), or spending in excess of a specified share of the gross national product.

3. Scope of Authority. A third type of limitation concerns the types of budget authority the power to rescind would apply to. Some proposals would limit it to appropriations bills; others, such as Armstrong-Long, would permit rescinding cost-of-living adjustments for entitlement programs.

Several draft statutes, with varying degrees of limitations, are attached at Tab B along with a narrative description of how the most limited of those draft statutes would work in practice.

Legal experts we have consulted, including officials of the Department of Justice, believe there is little likelihood of a successful constitutional challenge to legislation which gives the President rescission authority for appropriated funds. They have less confidence with respect to rescission authority for non-appropriated expenditures, although there are strong arguments that this would also be found constitutional.

Advantages

- o Enhanced rescission authority could be enacted quickly, builds on existing law, and does not require the lengthy process for amending the Constitution.
- o Rescission authority can be exercised at any time and for less than the total budget authority appropriated for a particular purpose. Most line item veto provisions require vetoing all budget authority for an item and must be exercised at the time the appropriations bill is presented for the Chief Executive's signature. In both these senses enhanced rescission authority is a highly flexible tool for spending control.
- o A statute also has the merit of involving greater detail

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and precision in addressing particular issues than is typical of most constitutional amendments.

- o The support generated for the Armstrong-Long amendment suggests that there is considerable interest in the Senate in providing the President with enhanced rescission authority.

Option 3: Support a line item veto constitutional amendment and seek enhanced rescission authority.

This option would involve a two-track approach seeking enhanced rescission authority to provide a flexible tool for responding to the near-term spending problem while also supporting a fundamental spending reform for the long-term.

Decision

- | | | |
|----------|-------|--|
| Option 1 | _____ | Support a line item veto constitutional amendment. |
| Option 2 | _____ | Support enhanced rescission authority. |
| Option 3 | _____ | Support a line item veto constitutional amendment <u>and</u> seek enhanced rescission authority. |

Issue 2: What form should a presidential spending control initiative take?

Once you have determined what type of enhanced spending control measure or measures the Administration should support the question remains of what form that support should take.

The Cabinet Council discussed two basic approaches.

Option 1: Support the concept of one or more presidential spending control initiatives and state your willingness to work with the Congress in developing the specific legislative details.

Advantages

- o Since many members of Congress will seek to focus attention on the respective roles of the President and the Congress in the budget process rather than

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on the need for greater spending control, it is important to shape the details of a specific proposal in close consultation with the Congress.

- o Any specific spending control proposal will provide a clear target for congressional critics. If it embraces some authority with respect to entitlements, for example along the lines of the Armstrong-Long amendment, opponents will claim this is an attempt by the Administration to reduce spending on social security.
- o To avoid criticism that we are seeking unlimited powers, a detailed legislative proposal would have to offer specific checks on presidential authority to restrain spending. Developing the specific legislative details with the Congress avoids the risk of unnecessary unilateral concessions in developing an initial proposal. In short, we may get more enhanced authority by not being too far out in front.

Option 2: Propose specific legislation for a line item veto constitutional amendment or enhanced rescission authority.

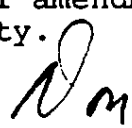
This option could take many different forms including submitting specific legislation at the time of the State of the Union for either a constitutional amendment or a rescission statute; or announcing in January that you will subsequently submit legislation after consultations with the Congress.

Advantages

- o Submitting specific legislation will make Administration support for enhanced spending control authority more credible than simply stating support for the concept and a willingness to work with Congress.
- o A specific proposal would provide a focus for debate and could help shape the parameters of whatever legislation ultimately is enacted.

Decision

- Option 1 _____ Support the concept of one or more presidential spending control initiatives and state your willingness to work with the Congress in developing the specific details.
- Option 2 _____ Propose specific legislation for a line item veto constitutional amendment or enhanced rescission authority.


Donald T. Regan
Chairman Pro Tempore

TAB A

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States concerning empowering the President to approve and disapprove separate items or provisions in appropriations bills.

Resolved by the Senate and the House of Representatives of the United States of America, in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

ARTICLE

Section 1. The President shall have the power to approve any appropriation or provision, and disapprove or reduce any other appropriation or provision, in the same appropriation bill, which shall have passed the House of Representatives and the Senate and have been presented to him for his approval, in the same manner and subject to the same limitations as he may, under Section 7 of Article 1 of the Constitution, disapprove as a whole any bill which shall have been presented to him.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States, within seven years from the date of its submission to the States by the Congress.

The Nature of Line Item Vetoes--Severability of Provisions.

The "item veto" potentially covers a broad range of legislative enactments. The most difficult conceptual (and political) problem is determining the measures that would be subject to separate Presidential disapproval. Analysis of the experience of the States suggests that, given the ways legislatures package appropriations, there are several inherent problems that must be addressed by any proposed statute or constitutional amendment. Judicial decisions interpreting various item veto provisions also demonstrate that, if any ambiguity exists, courts will interpret this authority in light of their own conceptions of the proper relationship between the legislative and executive branches. Accordingly, great care must be taken in drafting any proposal and creating its legislative history, so that the President obtains the degree of authority needed and his power cannot be narrowed in crucial particulars by post-adoption judicial construction.

- Definition of an "item". The most limited form of item veto permits the executive to disapprove only those elements of an appropriations bill denominated as separate sections. Most State veto authorities are broader, however, and permit the Governor to reject outright any individual appropriation for which an amount certain is designated for a specific purpose. This prevents the legislature from forcing the executive to approve expenditures he strongly opposes by coupling them with essential measures.
- Veto of restrictions or conditions on expenditures. The question often arises whether the executive may veto only those words in an appropriation which place limitations on the amount of money designated, or whether he must instead disapprove the entire measure--that is, if \$100,000 were appropriated for transportation provided that none of the funds could be used for home-to-office transportation for the agency head, the question would be whether the President could reject the portal-to-portal restriction while preserving the underlying appropriation. In general, the State courts have narrowly interpreted constitutional provisions to prohibit the governor from vetoing only the limiting words, except in the most limited circumstances. The argument generally advanced is that allowing a veto only of the conditions attached to an appropriation would convert a negative action by the legislature into a positive action, contrary to the underlying intent.
- Veto of only one item in an enumeration. A similar question frequently presented is whether the executive may veto one of several uses for which a lump sum is appropriated and spread the total amount over only those activities which he approves. In general, the State courts have proved hostile to this assertion of executive authority.

- Reduction, rather than rejection, of appropriations. One of the most important questions involving State item veto provisions is whether they permit the executive to reduce appropriations to an amount deemed appropriate, or whether they simply afford an all or nothing choice with respect to individual appropriations. In light of the difficulty State courts have had in grappling with this question and the vital nature of this authority, great care must be taken to ensure that any federal proposal clearly grants this desirable power to the President.
- Authority to veto substantive riders attached to appropriations bills. State courts also have wrestled with the question whether the provision of item veto authority for appropriations measures implicitly grants the executive power to veto substantive provisions attached to appropriations bills (e.g., a provision granting a specific exception to an OMB Circular tacked onto an appropriations bill). This power lies close to the heart of the impetus for item veto authority, and any federal proposal should expressly grant this authority to the President.
- Authority to exercise item veto authority over non-appropriations statutes. In general, the States have been very reluctant to grant this authority to the executive. The rationale for granting item veto power—that the executive cannot properly exercise his independent judgment concerning the merits of provisions in appropriations bills because the consequences of a veto of the entire measure would be that the government ceases to function—does not extend to substantive measures. It is far from obvious whether any federal proposal should seek to grant this power to the President, but it is clear that Congress would be extremely reluctant to grant it. In addition, any definition of a "bill" for veto purposes must be drafted to avoid undue restrictions on the Senate in light of the clause requiring revenue measures to originate in the House.

Some Options for an Enhanced Rescission Authority Statute (Draft Statutes Follow)

A. Simple Reversal of the Present System (Option A). This would repeal the existing rescission law and substitute for it a provision under which rescission would be effective unless overturned by positive legislation (subject to veto) within 45 calendar days. It is extremely broad, but there nevertheless will be some question whether it would apply to non-appropriated expenditures and mandatory spending programs unless these are specifically included. In addition, because it contains so few guidelines as to when it may be used, it runs more of a risk of successful constitutional challenge than a provision that places limits on the President's authority.

B. Enhanced Rescission Authority Based on President's Budget (Option B). This would add enhanced rescission authority to present law. The enhanced authority would, however, be limited to budget authority in excess of that proposed in a corresponding line item (or aggregation of line items) in the President's January budget. Possible refinements:

1. Further limit the authority in the same manner as the Armstrong-Long amendment. (Option B-1)

2. Further limit the authority to prevent re-rescission once Congress has reenacted rescinded budget authority. (Option B-2)

At Attachment C is a narrative description of how option B-2 could work in practice.

C. Enhanced Rescission Authority Limited by A Baseline Trigger Point (Option C). This also would add enhanced rescission authority to present law. The new authority would be applicable whenever the President determined that outlays were proceeding at a pace that would cause total outlays for a fiscal year to exceed some specified baseline. Potential baselines include total projected outlays in the President's January budget, a specified percentage of GNP, the deficit projected in the President's January budget, the previous year's budget authority or outlays, or some percentage of the previous year's budget authority or outlays. A triggering event of all of these could be the refusal of Congress to adopt the President's January budget. These options can also be limited as in Options B-1 and B-2.

A BILL

To amend the Impoundment Control Act of 1974 to provide a Presidential budget rescission authority.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended as follows:

Sec. 1. 2 U.S.C. 682(3) is amended to read as follows:
" 'rescission bill' means a bill or joint resolution which only [rescinds] reappropriates, in whole or in part, budget authority [proposed to be] rescinded in a special message transmitted by the President under section 683 of this title and upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress.

Sec. 2.

(a) Paragraphs 1, 3 and 5 of 2 U.S.C. 683(a) are amended to read as follows:

"(1) the amount of budget authority which he [proposes to be rescinded] is rescinding or [which is to be so reserved] reserving;

(3) the reasons why the budget authority [should] will be rescinded or [is to be so] reserved;

(5) all facts, circumstances, and considerations relating to or bearing upon the [proposed] rescission or the reservation and the decision to effect the [proposed] rescission or the reservation, and to the maximum extent practicable, the estimated effect of the [proposed] rescission or the reservation upon the objects, purposes, and programs for which the budget authority is provided."

(b) 2 U.S.C. 683(b) is amended to read as follows:

"(b) Any amount of budget authority [proposed to] may be rescinded or [that is to be] reserved as set forth in such special message [shall be made] , and shall no longer be available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill [rescinding] reappropriating all or part of the amount [proposed to be] rescinded or [that is to be] reserved."

A BILL

To amend the Impoundment Control Act of 1974 to provide a Presidential line item rescission authority.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Impoundment Control Act of 1974 (2 U.S.C. §681 et seq.) is amended by adding the following new section 683a:

§683a. Line Item Rescission Authority

(a) For purposes of this section "excess budget authority" means:

(A) the amount by which any line item of budget authority requested by the President in the budget submitted to Congress for any fiscal year under 31 U.S.C. §1105 is exceeded by a corresponding discrete item of budget authority for such fiscal year contained in any law, or

(B) in the event that such law contains no discrete item of budget authority corresponding to a line item of budget authority requested by the President, the amount by which any aggregation of line items of budget authority requested by the President in the budget submitted to Congress for any fiscal year under 31 U.S.C. §1105 is exceeded by a corresponding item of aggregate budget authority for such fiscal year contained in such law.

(b) Whenever the President determines that for reasons of economy, efficiency or fiscal management of the Government, excess budget authority should not be available for obligation, he may transmit to both Houses of Congress a special message identifying, and stating his intention to rescind part or all of such excess budget authority.

(c) Upon receipt by Congress of the special message described in subsection (b) the portion of such excess budget authority specified, by the President for rescission shall be rescinded, and shall not thereafter be available for obligation.

A BILL

To amend the Impoundment Control Act of 1974 to provide a Presidential line item rescission authority.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Impoundment Control Act of 1974 (2 U.S.C. §681 et seq.) is amended by adding the following new section 683a:

§683a. Line Item Rescission Authority

(a) For purposes of this section:

(1) "excess budget authority" means

(A) the amount by which any line item of budget authority requested by the President in the budget submitted to Congress for any fiscal year under 31 U.S.C. §1105 is exceeded by a corresponding discrete item of budget authority for such fiscal year contained in any law, or

(B) in the event that such law contains no discrete item of budget authority corresponding to a line item of budget authority requested by the President, the amount by which any aggregation of line items of budget authority requested by the President in the budget submitted to Congress for any fiscal year under 31 U.S.C. §1105 is exceeded by a corresponding item of aggregate budget authority for such fiscal year contained in such law.

(2) "new program" means a program or project for which budget authority was not provided in the immediately preceding fiscal year, but does not include a program or project that was authorized by enactment of a law after the commencement of the immediately preceding fiscal year expressly authorizing such program or project and containing no other matter.

(b) Whenever the President determines that for reasons of economy, efficiency or fiscal management of the Government, excess budget authority should not be available for obligation, he may transmit to both Houses of Congress a special message identifying, and stating his intention to reduce or eliminate, such excess budget authority.

(c) Upon receipt by Congress of the special message described in subsection (b) the portion of such excess budget authority specified by the President shall be rescinded, and shall not thereafter be available for obligation.

(d) In carrying out subsection (b) of this section, the President may not:

(1) reduce excess budget authority for any single program or project, except for a new program, in such a manner as to reduce expenditures for such program or project to less than eighty percent of the budget authority for such program or project in the immediately preceding fiscal year; or

(2) reduce excess budget authority in such a manner as to reduce benefit levels payable to individuals under a program funded through spending authority of the type described in section 401(c)(2)(C) of the Congressional Budget Act of 1974; provided, however, that nothing in this paragraph shall limit the authority of the President under subsection (b) of this section, notwithstanding any other provision of law, to place a limit on

(A) an increase which would otherwise take place in such benefit levels, or

(B) any amount payable to any individual on account of a change in eligibility standards,

which shall go into effect after the date on which the President shall have submitted to Congress, under 31 U.S.C. §1105, his budget for any fiscal year, unless such benefit levels were increased or eligibility standards were changed by a law enacted after the commencement of the immediately preceding fiscal year which expressly increased such benefit levels or changed such eligibility standards and contained no other matter.

A BILL

To amend the Impoundment Control Act of 1974 to provide a Presidential line item rescission authority.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Impoundment Control Act of 1974 (2 U.S.C. §681 et seq.) is amended by adding the following new section 683a:

§683a. Line Item Rescission Authority

(a) For purposes of this section:

(1) "excess budget authority" means

(A) the amount by which any line item of budget authority requested by the President in the budget submitted to Congress for any fiscal year under 31 U.S.C. §1105 is exceeded by a corresponding discrete item of budget authority for such fiscal year contained in any law, or

(B) in the event that such law contains no discrete item of budget authority corresponding to a line item of budget authority requested by the President, the amount by which any aggregation of line items of budget authority requested by the President in the budget submitted to Congress for any fiscal year under 31 U.S.C. §1105 is exceeded by a corresponding item of aggregate budget authority for such fiscal year contained in such law.

(2) "new program" means a program or project for which budget authority was not provided in the immediately preceding fiscal year, but does not include a program or project that was authorized by enactment of a law after the commencement of the immediately preceding fiscal year expressly authorizing such program or project and containing no other matter.

(b) Whenever the President determines that for reasons of economy, efficiency or fiscal management of the Government, excess budget authority should not be available for obligation, he may transmit to both Houses of Congress a special message identifying, and stating his intention to rescind part or all of such excess budget authority.

(c) (1) Upon receipt by Congress of the special message described in subsection (b) the portion of such excess budget authority specified, by the President for rescission shall be rescinded, and shall not thereafter be available for obligation, unless within 45 legislative days of the receipt of such special message, Congress shall have completed action on and sent to the President for his approval a bill dealing solely with such rescission that restores all or part of such excess budget authority.

(2) Upon enactment of a law described in paragraph (1) of this subsection, the amount of budget authority restored in such law shall not thereafter be subject to rescission under this section.

(d) In carrying out subsection (b) of this section, the President may not:

(1) during the last 60 days of any fiscal year, transmit a special message described in subsection (b) of this section which states an intention to rescind excess budget authority that would cease to be available for obligation at the end of such fiscal year; or

(2) reduce excess budget authority for any single program or project, except for a new program, in such a manner as to reduce expenditures for such program or project to less than eighty percent of the budget authority for such program or project in the immediately preceding fiscal year; or

(3) reduce excess budget authority in such a manner as to reduce benefit levels payable to individuals under a program funded through spending authority of the type described in section 401(c)(2)(C) of the Congressional Budget Act of 1974; provided, however, that nothing in this paragraph shall limit the authority of the President under subsection (b) of this section, notwithstanding any other provision of law, to place a limit on

(A) an increase which would otherwise take place in such benefit levels, or

(B) any amount payable to any individual on account of a change in eligibility standards,

which shall go into effect after the date on which the President shall have submitted to Congress, under 31 U.S.C. §1105, his budget for any fiscal year, unless such benefit levels were increased or eligibility standards were changed by a law enacted after the commencement of the immediately preceding fiscal year which expressly increased such benefit levels or changed such eligibility standards and contained no other matter.

A BILL

To amend the Impoundment Control Act of 1974 to provide a Presidential line item rescission authority.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Impoundment Control Act of 1974 (2 U.S.C. §681 et seq.) is amended by adding the following new section 683a:

§683a. Line Item Rescission Authority

(a) For purposes of this section "excess budget authority" means budget authority which the President has determined is likely to result in total outlays for any fiscal year exceeding the total estimated outlays for such fiscal year as stated by the President in the budget submitted to Congress under 31 U.S.C. §1105 (or one of the other baseline options).

(b) Whenever the President determines that for reasons of economy, efficiency or fiscal management of the Government, excess budget authority should not be available for obligation, he may transmit to both Houses of Congress a special message identifying, and stating his intention to rescind part or all of such excess budget authority.

(c) Upon receipt by Congress of the special message described in subsection (b) the portion of such excess budget authority specified, by the President for rescission shall be rescinded, and shall not thereafter be available for obligation.

Example of How Enhanced Rescission Option B-2 Could Work

In his budget for fiscal year 1983, the President proposed to "zero out" the Bureau of Alcohol, Tobacco and Firearms (BATF). The prior year's outlays were estimated at approximately \$80 million.

1. Assume that Congress appropriates \$120 million for 1983 for BATF as part of the general Treasury appropriations bill, and the President signs the bill.

2. The President still believes that BATF should not be continued, and, at the start of fiscal 1983, rescinds \$56 million of the budget authority, bringing 1983 budget authority to \$64 million (80% of \$80 million). Since BATF is not a "new program" the President may not rescind budget authority beyond a level equal to 80% of the prior year's expenditures.

3. Within 45 days after the President sends the rescission message to Congress, Congress completes action on a bill that reappropriates \$26 million of the BATF budget authority, bringing total budget authority to \$90 million. The bill contains no other matter.

4. a. The President signs the legislation. The President may not thereafter use his enhanced rescission authority to rescind further BATF budget authority for 1983. He may, however, propose rescission under the existing procedure wherein rescission requires affirmative legislation to become effective. [Note: If the legislation had been passed outside the 45-day limit or contained other matter, the President may sign the bill but nevertheless use his enhanced rescission authority to re-rescind the excess over \$64 million.]

or

b. The President vetoes the legislation, but Congress overrides the veto. This has the same effect as if the President had signed the legislation.

or

c. The President vetoes the legislation and Congress does not override. BATF budget authority for 1983 will be limited to \$64 million. If Congress attempts to appropriate additional funds, not only is such legislation subject to veto, but the additional funds would be subject to the use of the President's enhanced rescission authority.

THE WHITE HOUSE

WASHINGTON

January 16, 1984

MEMORANDUM FOR THE PRESIDENT

FROM: CABINET COUNCIL ON ECONOMIC AFFAIRS

SUBJECT: Youth Unemployment

The Cabinet Council on Economic Affairs has recently undertaken a series of studies reviewing major areas of economic policy. Economic Policy Study Number 7 focused on reaching full employment. A summary of the youth unemployment part of the study is attached at Tab A. This memorandum presents the conclusions and recommendations of the Cabinet Council arising from this study.

Background

In 1982, the Cabinet Council undertook a comprehensive examination of the nature of contemporary unemployment and of policy options designed to reduce unemployment. The results of this examination were presented to the Cabinet Council in a series of meetings during the last quarter of calendar year 1982. These presentations emphasized the importance of:

- o distinguishing between structural and cyclical unemployment; and
- o recognizing the differences in the causes and consequences of unemployment among different demographic groups (e.g., youth and displaced workers).

The Cabinet Council reviewed a wide range of policy options designed to address the problem of structural unemployment. You approved a number of these options, combined them into a single package, and submitted to the Congress this package as the Employment Act of 1983. These initiatives included:

- o A youth employment opportunity wage for summertime employment;
- o Exemption of wages paid under the youth employment opportunity wage from Federal Unemployment Insurance (UI) payroll taxes;
- o An extension of the Federal Supplemental Compensation (FSC) program which provides additional weeks of unemployment benefits to individuals exhausting their entitlement to regular or extended unemployment benefits;
- o A job voucher program for the long-term unemployed that

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would enable individuals eligible for the FSC program to receive their benefits in the form of a job voucher;

- o A substantial increase in funding for the displaced worker program authorized under the Job Training Partnership Act (JTPA) of 1982; and
- o A modification of the Federal UI Program that would permit States to use a portion of their UI revenues for training unemployed workers.

Congress enacted two of the Administration's initiatives into law: the extension of FSC and the increased funding for the JTPA displaced worker program. Congress devoted little attention in the last session to either the youth employment opportunity wage or the job voucher proposals.

Although cyclical unemployment has declined dramatically since the recession ended in the fourth quarter of 1982, there still remains substantial unemployment among youth. The unemployment rate for all youth (age 16-19) in December 1983 was 20.1 percent. The rate for black youth was 49.0 percent.

Over the last fifty years, the Federal Government enacted a panoply of programs directed toward youth unemployment. These programs ranged from remedial education to job creation projects to tax credits. Despite the diversity of programs and the expenditure of billions of dollars, it appears that the youth unemployment problem has remained resistant to all Federal youth employment and training initiatives. Since the mid-1950's, the youth unemployment rate has moved cyclically, reaching a higher peak with each cycle.

Administration Efforts to Reduce Youth Unemployment

Your administration's major effort to reduce youth unemployment is embodied in the Job Training Partnership Act (JTPA) of 1982. JTPA reauthorized several existing youth employment and training programs and made youth a priority under the State block grant program. Certain administrative changes should strongly enhance the likelihood that, unlike previous programs, JTPA trains participants for actual jobs.

There is strong evidence indicating that the Federal minimum wage has restricted employment opportunities for youth and contributes to their long-term unemployment since they are unable to develop job skills and good work habits.

The Cabinet Council strongly believes the most important means of reducing youth unemployment would be to establish the youth employment opportunity wage for youth under the age of 22. This youth opportunity wage would be:

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- a) \$2.50 per hour, 25 percent below the regular Federal minimum wage of \$3.35 per hour; and
- b) effective from May 1 to September 30, making it extremely unlikely that employers will substitute younger people for older workers. The proposed legislation would explicitly prohibit the displacement of current workers by those hired at the youth opportunity wage.

Based on our experience last year, this legislation will need consistent and visible presidential and White House support if the Congress is to respond favorably to this initiative.

In addition to the compelling policy reasons for advancing this initiative, a youth differential minimum wage appears to have broad public support. A recent Gallup poll reported that 53 percent of those surveyed favored enacting a year-round youth differential minimum wage while 42 percent opposed such legislation. Even among rank and file union members, 47 percent surveyed supported such legislation while 51 percent opposed it. Many of those traditionally opposed to a youth differential have been concerned that it would result in employers substituting youth for adult workers. Since the Administration's proposal would limit the youth opportunity wage to the summer months, substitution is far less likely, undercutting one of the principal objections to a youth differential. Interestingly, a proposal for a youth differential minimum wage lost in the House of Representatives by only one vote in 1978.

The Cabinet Council also believes the Administration should continue its efforts to enact legislation providing the long-term unemployed with the option of receiving job vouchers as an alternative to cash assistance.

Recommendations

1. The Cabinet Council on Economic Affairs recommends that the Administration reaffirm its support for establishing a youth employment opportunity wage and make a major effort to enact this legislation as a concrete step toward reducing youth unemployment. This effort would include presidential and White House involvement. The Cabinet Council urges that you consider including mention of this initiative in your 1984 State of the Union Address.
2. The Cabinet Council also recommends that the Administration continue its efforts to enact your job voucher proposal.

Approve _____ Disapprove _____

Donald T. Regan
Chairman Pro Tempore

Youth Unemployment

This report of the Working Group reviews the recent record of unemployment, particularly youth unemployment; describes previous Administration efforts to reduce youth unemployment; and focuses on the youth employment opportunity wage proposal as a means of reducing youth unemployment.

Recent Record of Unemployment

Since the recent recession ended in the fourth quarter of 1982, unemployment has declined dramatically. The unemployment rate among civilian workers peaked in November and December 1982 at 10.7 percent of the labor force (Bureau of Labor Statistics revised estimate). The Department of Labor reported that the unemployment rate in December 1983 was 8.2 percent.

Although unemployment among youth is high, white youth have also experienced a substantial decline in their unemployment rate.

| | <u>December 1982</u> | <u>December 1983</u> |
|-------------------|----------------------|----------------------|
| All youth (16-19) | 24.3 | 20.1 |
| White | 21.6 | 17.0 |
| Black | 49.1 | 49.0 |

It is reasonable to assume that as the economy continues to grow strongly, the overall unemployment rate will continue to decline. However, part of the unemployment will remain even if the economy were operating at full capacity. This portion of unemployment is structural.

The Working Group has focused its efforts on developing options for reducing structural unemployment. There are two primary groups of structurally unemployed. First, youth often experience difficulty in obtaining employment because of, inter alia, lack of work history and job skills, and structural barriers such as the minimum wage. Second, workers who have permanently lost their jobs due to technological change and import competition are considered by many observers to be "displaced workers." These displaced workers often experience difficulty in obtaining employment during periods of low economic growth because of the lack of skills for available jobs and the need to relocate.

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This paper addresses the issue of youth unemployment. A subsequent paper will address the issue of displaced workers.

Youth Unemployment Record

After the Korean War, the unemployment rate among youth (16-19 years of age) hovered between 11 and 12 percent. In the 1957-58 recession, that rate shot up to 15.9 percent and remained above 14.6 percent every year until 1966 when the Vietnam War buildup absorbed a substantial proportion of the youth population. While there was a slight decline in the youth unemployment rate during the late 1960's, the rate never fell below 12.2 percent. In the 1970's, the rate fluctuated between 14.5 and 19.9 percent.

The unemployment rate among black youth has always been significantly higher than that among white youth. During the 1960's, the rate among white youth peaked in 1963 at about 15.5 percent, while the rate among black youth peaked at about 30 percent. In fact, for the last two decades, the black youth unemployment rate has been roughly twice as high as the white youth unemployment rate.

Youth Employment Programs

The consequences of youth unemployment are different from those of adult unemployment. While unemployment among adults often results in significant financial loss and temporary economic hardship, unemployment among youth usually does not create severe financial hardship because most youth live in families in which they are not the primary wage earner.

Nevertheless, significant unemployment among youth can lead to serious long-term consequences. First, sustained unemployment can contribute to youth participating in antisocial or criminal activities. Second, the inability to develop good work habits and job skills during a person's formative years can result in less stable employment and diminished earning capacity during his or her adult years.

The first substantial Federal programs directed toward youth unemployment began during the Depression. Prior to the Depression, the government focused its efforts on filling labor shortages created by a short-term emergency and providing limited support for vocational skill training. In contrast, the New Deal programs emphasized not skill development, but job creation and programs to alleviate hardship. As a result, the Federal Government created numerous programs for youth employment, including the Civilian Conservation Corps and National Youth

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Administration. Most of the job creation programs were discontinued after World War II.

The 1960's and 1970's saw a revival of many of the programs started in the 1930's but with one significant addition: training. The first government program in the 1960's that addressed youth unemployment was the Manpower Development and Training Act (MDTA) of 1962 which authorized services to out-of-school youth on a very limited basis.

However, it was not until the Economic Opportunity Act (EOA) of 1964 that the Federal Government established categorical programs designed explicitly for youth employment. Several of these programs are still operating today, including:

- o Job Corps - a residential program which provides intensive remedial education and skill training for disadvantaged youth who drop out of school.
- o Neighborhood Youth Corps (NYC) - The NYC was actually three separate programs which provided summer jobs and work experience for in-school and out-of-school youth. The summer jobs portion was the predecessor of the Summer Youth Employment Program reauthorized under the Job Training Partnership Act (JTPA) of 1982.

Despite the programs' reported success, the youth unemployment problem appeared to worsen steadily. In 1965, the youth unemployment rate stood at 14.2 percent; by 1972, it had risen to 16.2 percent.

Dissatisfaction with the unemployment situation and the chaotic collection of employment and training programs led to a restructuring effort which resulted in the enactment of the Comprehensive Employment and Training Act (CETA) of 1973. CETA reauthorized funds to continue Job Corps as well the Summer Youth Employment Program.

Even under CETA, the youth unemployment situation continued to worsen. By 1975, the overall youth unemployment rate rose to 19.9 percent. Concern about the continued high rate led to the enactment of the Youth Employment and Demonstration Projects Act (YEDPA) of 1977. This Act amended CETA and added four new categorical youth employment and training programs. Between 1977 and 1982, \$10.7 billion was spent on all categorical youth programs, serving between 6 and 7 million youth under age 22.

The youth unemployment problem has apparently remained resistant to all Federal youth employment and training initiatives. While teenage unemployment declined to 16.1

-4-

percent in 1979, it rebounded to 23.2 percent in 1982.

Reagan Administration Efforts to Reduce Youth Unemployment

The Reagan Administration's major effort to reduce youth unemployment is embodied in the Job Training Partnership Act (JTPA) of 1982. Congress and the Administration worked together in 1982 to fashion JTPA which eliminated the New Deal-type programs and emphasized skill training. JTPA continues the Job Corps and Summer Youth Employment Program and makes youth a priority under the State block grant program.

In fiscal year 1984, Title II-A of JTPA provides \$1.9 billion in grants to States for training, of which \$754 million or 40 percent must be spent on youth. Under this title, about 400,000 economically disadvantaged youth will be trained. Title II-B reauthorizes the Summer Youth Employment Program, for which \$725 million will be available in FY1984 and which will employ about 700,000 teenagers. Title IV-B reauthorizes the Job Corps program, for which \$553 million will be available in FY1984 and which will train 80,000 youth.

The Administration is confident that JTPA will provide effective skill training leading to long-term productive employment for youth. By requiring that 70 percent of all funds be allocated to actual training, JTPA will assure that participants have a greater opportunity to receive training than participants in the CETA programs in which an average of only 18 percent of all funds was actually spent on training. Moreover, JTPA's close coordination with private sector employers through the Private Industry Councils (PICs) increases the likelihood that the training participants receive is relevant to jobs that are available in the market.

The minimum wage. One of the most important structural barriers to the ability of youth to gain valuable job skills is the minimum wage. Most young people entering the labor market have job skills that are well below those of older, more experienced workers. In a free market, young people could compensate for their relative lack of experience and skills by offering to work for a lower wage than more experienced workers. As they gain experience, they would be able to obtain more compensation. When the government intervenes in the market by requiring a minimum wage, it:

- a) prevents employers from providing youth valuable work experience while paying them wages that are commensurate with the current value of their labor; and

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- b) prevents youth from obtaining an initial job and thus learning the job skills that are needed to earn more than the minimum wage.

There is strong empirical evidence supporting the argument that the minimum wage is a major contributor to the youth unemployment problem. Before the 1940's, there was no significant structural youth unemployment. In 1938, however, the Federal Government imposed a Federal minimum wage applying to firms engaging in interstate commerce which at the time meant that only manufacturing firms were affected. The minimum wage contributed to the decline in youth employment in manufacturing. However, other industries not covered by the Federal minimum wage such as retail trade and construction still provided employment opportunities for youth. Unfortunately, the increase in the minimum wage and expansion of its coverage to previously uncovered sectors during the 1960's and 1970's contributed to the continued high rate of youth unemployment, particularly among minorities.

To reduce the adverse effects of this barrier, the President last March submitted the Employment Act of 1983, in which he proposed a youth employment opportunity wage for youth under the age of 22. This youth opportunity wage would be:

- a) \$2.50 per hour, 25 percent below the regular minimum wage of \$3.35 per hour;
- b) effective from May 1 to September 30, which by itself would make it extremely unlikely that employers will substitute younger people for older workers. Moreover, the proposed legislation would explicitly prohibit the displacement of current workers by those hired at the youth opportunity wage.

Given the employment opportunities for youth that would be created if a youth opportunity wage were in effect, the Working Group recommends that the Administration strongly support in the upcoming Congressional session legislation establishing the youth opportunity wage. The Working Group notes that the President recently indicated in an interview with editors of the Gannett Co. that he will press Congress again for establishing the opportunity wage.